BY-LAW 21-32

THE CORPORATION OF THE TOWNSHIP OF THE NORTH SHORE

Being a By-Law to approve a Policy for Unopened Road Allowances, Easements and Assumption of Private and Unassumed Roads.

WHEREAS Section 5 of the *Municipal Act 2001 S.O. 2001, c.25*, as amended, authorizes a municipality to pass by-laws to exercise its municipal powers;

AND WHEREAS Section 8 of the *Municipal Act, S. O. 2001, c.25*, as amended, confers broad authority upon municipalities and provides that a municipal power shall be exercised by by-law;

AND WHEREAS Section 27 (1) of the *Municipal Act, S.O. 2001, c.25*, as amended, authorizes that a Municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

AND WHEREAS Sections 28(1) and (2) of the *Municipal Act, S.O. 2001, c.25*, as amended, authorizes that a Municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

AND WHEREAS Sections 28(1) and (2) of the *Municipal Act, S.O. 2001, c.25*, as amended, provides for the highways over which a municipality has jurisdiction;.

AND WHEREAS the Corporation of the Township of the North Shore deems it expedient to adopt a policy for Unopened Road Allowances, Easements and Assumption of Private and Unassumed Roads;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF THE NORTH SHORE HEREBY ENACTS AS FOLLOWS:

1. That the Corporation of the Township of The North Shore hereby adopts the Policy for Unopened Road Allowances, Easements and Assumption of Private and Unassumed Roads.

2. The attached Schedule "A", being Policy for Unopened Road Allowances, Easements and Assumption of Private and Unassumed Roads, shall form part of this by-law.

3. This by-law shall come into effect on the date of its final passing.

READ A FIRST, SECOND AND THIRD TIME ENACTED AND FINALLY PASSED THIS 2nd DAY OF JUNE, 2021.

Tony (Anthony) Moor, Mayor

Angel Pilon, Clerk

The Corporation of the Township of the North Shore
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THE CORPORATION OF THE TOWNSHIP OF THE NORTH SHORE

POLICY MANUAL

POLICY TITLE:	SUBJECT:
Unopened Road Allowances And Easement	Assumption of Private and Unassumed Roads
POLICY SECTION:	POLICY NO:
U	1
EFFECTIVE DATE: June 2, 2021	ENACTED BY: By-Law No. 21-32

1. **STATEMENT**

This policy establishes guidelines for property owners requesting year round municipal maintenance services on existing seasonal roads, unassumed/unopened road allowances/ easements or private roads. This Policy will establish how the Township will control road standards as well as determine who will be responsible for the costs associated with achieving these standards.

It is the intent of the Council of the Township of the North Shore to protect the municipality and its residents from incurring tax increases to finance road construction and upgrades that are the responsibility of developers, and in some cases residents whose properties are abutting and/or accessed by seasonal and/or private roads, or easements.

Unless it is clearly in the public interest and for the general benefit of the Township as determined by Council, the Township does not intend to assume responsibility unmaintained municipal roads, laneways, easements or private roads nor will they have will responsibility for access, snow clearance, maintenance, repair, liability for such unassumed roads.

2. **DEFINITIONS**

a) An **"unopened road allowance"** as defined by the *Municipal Act* is a public highway that has not been opened and assumed for maintenance purposes by By-law of the Township. These may accommodate seasonal (summer) traffic, private access to a house, or vacant lands, or may function as a trail or public access to a water body or may be an easement. These roads are considered Class 6 Roads, not subject to minimum maintenance standards under provincial regulations.

b) **"Road allowances"** refer to allowances originally laid out for roads by a crown surveyor, including both road allowances shown on an original township survey and road allowances shown along the water in a plan of subdivision. Road allowances are generally 66 feet in width. These roads are considered Class 6 Roads, not subject to minimum maintenance standards under provincial regulations

c) **"Private road"** is a local road that is not owned or assumed by the Municipality and the use, maintenance and liability of the road are the responsibility of the abutting land owners.It may or may not be publicly accessible. The Municipality may assume a previously unassumed or private road in the future provided the road meets the acceptable minimum standards. Within smaller municipalities of Ontario, many properties are accessed by private roads. Private roads are owned and maintained by one or more land owner and used to access private property. Private roads are maintained at the standard that is feasible for the owner or owners who live on that road.

d) **"Unassumed/unmaintained municipal roads"** is a local road, road allowance, easement that is owned and not assumed by the Municipality and no winter snow plowing/sanding or maintenance is provided by the Municipality, and includes those roads outlined in Schedule "C', attached to this policy.

3. PURPOSE OF POLICY

This policy establishes guidelines for unmaintained municipal roads, seasonal roads, private lands and easements within the Township required for assumption consideration. The goal of the policy is to:

a) Ensure consistency in the upgrading of existing and construction of municipal roads;
b) Ensure that the policies of the Official Plan are adhered to;
c) Ensure that any proponents building new municipal roads do so to a minimum municipal standard;
d) Ensure that any proponents upgrading existing seasonal or private roads to municipal roads abide by a minimum municipal standard;
e) Avoid passing costs to ratepayers of the municipality;
f) Control the means by which the Township may assume private or seasonally maintained municipal roads to ensure and provide fairness and consistency; and

g) Control the use and development of unopened road allowances and easements.

4. SCOPE OF POLICY

The Township shall only consider by means of this policy the assumption of existing unassumed roads, roads created through easements or existing private roads established prior to the adoption of this policy. This policy does not apply to the construction of any new roads or roads considered part of a development proposal or plan of subdivision.

5. POLICY INTENT

5.1 The purpose of this policy is to establish the process to be followed and the minimum maintenance standards required for any unmaintained municipal road, easement, seasonal roads or private lanes, prior to Council's consideration of possibly assuming the road or lane for public use and providing maintenance by the Township.

5.2 It is in the public's interest that all roadways assumed by the municipality meet a minimum municipal standard. Township Council will, upon request only and as budget allows, consider assuming unmaintained municipal roads, private roads or roads on unopened road allowances which meets the Township's minimum road construction standards.

5.3 A proposal is required to be submitted to the Township and such proposal must include all documentation and information considered necessary to satisfy Council that the assumption of the unassumed/unmaintained road is in the public interest and that the proponent acknowledges and accepts that any and all costs associated with the assumption are to be the responsibility of the proponent(s).

5.4 The costs associated with the construction works necessary to meet the minimum construction standards and administrative and legal costs associated with the assumption of the road shall be borne by the proponents.

The provisions in this policy that apply to an unopened road allowance shall apply to both unopened road allowances and to easements.

6. CLASSIFICATION OF MUNICIPAL ASSUMED ROADS

For the purposes of this policy all assumed Township roads are considered Class 6 roads, not subject to Minimum Maintenance Standards under Ontario Regulation 239/02. For the purposes of winter snow plowing/sanding operations all assumed Township roads are considered Class 5 roads.

7. UNASSUMED AND UNOPENED ROAD ALLOWANCES

7.1 The Township recognizes that the public may use unopened road allowances for access by vehicles or for use as snowmobile or recreational vehicles even though they are not maintained by the Township. Council is under no obligation to maintain such roads, but may require an agreement for their use or maintenance.

7.2 Council may open a road allowance or assume a road where the road is developed to municipal standards in accordance with Section 5.2 and provided that Council is satisfied that the operational costs of maintaining the road will be reasonably offset by property tax revenues.

8. ASSUMPTION OF PRIVATE ROADS AND/OR LANES

The Township may assume a private road and/or lane where the standards meet the design and construction requirements for Township roads or are constructed to an alternative standard acceptable to Council, and where the road allowance is dedicated (transfer of title) to the municipality and is surveyed. If it is physically impossible to widen an existing substandard private lane or reduce any existing grade to 8%, Council may, at its discretion, accept a lesser width or greater grade. Prior to deciding on the assumption of a private lane, Council may require a cost-benefit analysis to determine if the operational costs of assuming and maintaining the road will be offset by property tax revenues. The costs for upgrading a private road/lane to a Township standard will be borne by the adjacent property owners (e.g. survey, legal and construction costs).

9. LIMITED SERVICES ON PRIVATE ROADS/LANES AND UNMAINTAINED MUNICIPAL ROAD ALLOWANCES AND EASEMENTS

9.1 Council will assume no responsibility for providing access, snow removal or the maintenance of private roads and/or lanes nor is any responsibility acknowledged for the provision of school busing.

9.2 Where Council provides for emergency services, private lanes will be required to meet a minimum standard of construction and maintenance and include a vehicle turnaround.

9.3 Council may at its sole discretion, register notice on title or require that an owner enter into an agreement acknowledging that the municipality will not be responsible for the repair or maintenance of private lanes and that the municipality is under no obligation to provide fire protection, police, ambulance or other emergency services.

10. CRITERIA TO BE CONSIDERED BY COUNCIL

Without being limited to the following, the Township shall consider the following criteria in determining if it is in the public interest to assume an unmaintained or private road:

a) Does the road serve, or will it serve, five (5) or more separate and distinct private parcels of land which are being used, or are capable of being used for the purposes permitted within that zone, on a year-round basis?
b) Does the road provide access to a Township maintained boat launch, beach or other facility or attraction promoted by the Township for public use and tourism?
c) Would the assumption of the road over-extend existing municipal roads maintenance programs, operations and resources?
d) Was the road constructed to the standards as stated herein, thus avoiding costly future repairs?
e) Will the assumption of the road promote further desired development?
f) Would further development require the road to be extended?
g) Would further development on this road over-extend existing municipal services?
h) Would the road facilitate the safe and efficient movement of goods and people?
i) Council must be satisfied that not less than two-thirds of all property owners who will receive direct benefit from the assumption of the road agree to the undertaking of the study and the assumption of the road by the Township.
j) Council must be satisfied that all authorities have been notified and regulations are followed where there could be any interference with wetlands or any alterations to shorelines and watercourses.
k) Is there a reference plan prepared by an Ontario Land Surveyor documenting the lands affected by the proposed assumption?
l) Has the Proponent provided original deeds and certification of title for the lands in question prepared by the proponent's Solicitor?
m) Has the Township received a legal opinion on the ownership status of the subject road and a risk assessment of assuming or not assuming the road?

11. IMPLEMENTATION

11.1 The Township shall only consider the assumption and maintenance of new roads, existing unmaintained Municipal roads, or existing private roads following receipt of a petition to Council in accordance with the Local Improvement Charges - Priority Lien Status regulations, and if the road is brought up to the standards as approved by the Township.

i. The petition must contain the signatures of two-thirds (2/3) of the property owners having frontage on the road to be assumed and representing at least one-half (1/2) of the assessed value of the lots liable to be specially charged for the work.
ii. Acknowledgement from the petitioners that if the Township undertakes a Local Improvement to bring the road up to Township standards the cost of the work shall be borne by the proponents and the Township will impose special frontage charges on the lots that abut the work and other lots that will immediately benefit from the work.
iii. Included in the special frontage charges under the Local Improvement regulations will be; property acquisition costs (if any), capital construction costs, engineering and legal expenses, surveying costs, reasonable administrative costs and interest on short and long term borrowing.

11.2 Upon receipt of a petition requesting assumption of a roadway, the Township will verify the sufficiency of the petition, i.e., petitions not supported by two-thirds of the property owners will not be considered, or assumption of portions of a road less than 500 meters will not be considered unless the road links existing maintained Township roads.

11.3 Township staff will prepare an Administrative Report and if Council agrees "in principle" with the possible assumption of the road then the work will proceed following the Local Improvement Charges - Priority Lien Status regulations.

11.4 Prior to assuming the road section, the Township shall request an independent review of the subject road, at the Proponent's expense. This review will include a report on the as-built condition of the existing road by a professional engineer and a cost-benefit analysis to determine the operational costs of maintaining the road and the impact on Township resources. In addition, the consultant will prepare, as part of the engineering report, an estimate of all costs relating to the construction or reconstruction of the non-assumed road to the standards as stated herein. The cost of the independent engineering review and cost-benefit analysis will be borne by the Proponents.

11.5 Prior to the commencement of an engineering study the proponent shall submit to the Township a refundable deposit of one thousand dollars ($ 1,000.00) (Public Works Lead to provide proponent with Engineer's estimate and additional deposit may be required prior to proceeding). This deposit will be used to cover the engineering review costs and the amount may be increased as needed if the review is more complex. Any amount of the deposit not needed to cover the independent review will be returned to the Proponent.

11.6 Year round road service will not be provided until Council passes a by-law to formally assume the road and until the subject road is upgraded to the road standards as approved by the Township of The North Shore, at the expense of the benefiting property owners.

11.7 Any formal requests and petitions for road assumption received after August 31st will not be considered until the following year to avoid unreasonable demands on the Township's winter control operations.

12. PROCEDURE, IMPLEMENTATION AND ROAD STANDARDS

When submitting a proposal to the Township, all documentation and information must satisfy Council that the assumption of the non-assumed road is in the public interest, and that the proponent(s) acknowledge and accept that any and all costs associated with such assumption are to be borne by the proponent, including and not limited to survey, legal cost, consultation, etc...

13. SNOW PLOWING AND SANDING POLICY

The Township's Policy P3 outlines the winter snow plow/sanding operations for Township assumed and maintained roads; Policy R3 with respect to Air Service Road; R1 with respect to road maintenance and Ontario Regulation 239/02, Classification of Highways and Township Municipal Public Roads are attached as Schedule "A".

14. SIGNAGE

The Township may install signage on all unassumed roads, or sections thereof, as considered appropriate by the Head of Public Works stating "No maintenance on this road beyond this point".

15. TOWNSHIP ASSUMED AND MAINTAINED ROADS

The Township's assumed municipal roads, for which road maintenance services is provided, is attached as Schedule "B".

16. TOWNSHIP UNASSUMED AND UNMAINTAINED ROADS

The Township's unassumed and unmaintained roads, for which no road maintenance services is provided by the Municipality, is attached as Schedule "C".

17. PRIVATE UNASSUMED ROADS BY VILLAGE

The Township's private unassumed roads by village, including Algoma Mills, Spragge and Serpent River, for which no road maintenance services is provided, is attached as Schedule "D".